

EXHIBIT 11

Page 1

1 JAMS ARBITRATION
2 LOANDEPOT.COM, LLC,)
3 Claimant,) JAMS Reference
4 v.) Number: 541000076
5 SEAN JOHNSON,) Arbitrator:
6 Respondent.) Linda R. Singer
7 _____)

11 Zoom Deposition of:
12
13 BRIAN COVEY
14
15 Taken on behalf of the Respondent
16
17 January 10, 2024

19

Page 2

1 APPEARANCES:

2 For the Claimant PAUL KENNEDY, ESQ.
3 via Zoom: CAMELLIA CAMPANELLI, ESQ.
4 Littler Mendelson P.C.
5 815 Connecticut Avenue NW
6 Suite 400
7 Washington, DC 20006
8 (202) 842-3400
9 Pkennedy@littler.com
10 Cmokri@littler.com
11 LESLIE W. EHRET, ESQ.
12 BEN M. CASTORIANO, ESQ.
13 Frilot, LLC
14 1100 Poydras Street
15 Suite 3700
16 New Orleans, Louisiana 70163
17 (504) 599-8203
18 Lehret@frilot.com
19 Bcastoriano@frilot.com
20 ARI KAREN, ESQ.
21 Mitchell Sandler, LLC
22 1120 20th Street NW
23 Suite 725
24 Washington DC 20036
25 (202) 886-5265
Also Present via Akaren@mitchellsandler.com
Zoom: Meredith Grant, Esq.
Nick Helsabeck-Ochoa

Page 3

	I N D E X	
1		
2		
3		Page
4	Examination by Mr. Karen:	7
5	Examination by Mr. Kennedy:	399
6	Further Examination by Mr. Karen:	402
7		
8	E X H I B I T S	
9		Page
10	Exhibit No. 1	82
11	Universal Residential Loan Application	
12	Exhibit No. 3	97
13	Role Specific Incentive Terms	
14	Producing Branch Manager	
15	Exhibit No. 4	256
16	loanDepot Permitted Loan Transfer	
17	Agreement	
18	Exhibit No. 7	313
19	E-mail Chain	
20	Exhibit No. 8	307
21	E-mail Chain	
22	Exhibit No. 9	310
23	E-mail Chain	
24	Exhibit No. 10	312
25	E-mail Chain	
	Exhibit No. 11	332
	E-mail Chain	
	Exhibit No. 13	326
	E-mail Chain	
	Exhibit No. 16	298
	Text Messages	

Page 4

1	Exhibit No. 17	300
	E-mail Chain	
2	Exhibit No. 18	290
	Text Messages	
3	Exhibit No. 19	293
	E-mail Chain	
4	Exhibit No. 21	76
	MBA Article	
5	Exhibit No. 22	338
	Expert Report of James M. Deitch, CMB	
6	Exhibit No. 23	236
	E-mail Chain	
7	Exhibit No. 24	265
	E-mail Chain	
8	Exhibit No. 25	263
	E-mail Chain	
9	Exhibit No. 27	373
	E-mail Chain	
10	Exhibit No. 28	381
	E-mail Chain	
11	Exhibit No. 33	224
	E-mail from Sean Johnson	
12	Exhibit No. 34	197
	Text Messages	
13	Exhibit No. 35	199
	Text Messages	
14	Exhibit No. 36	203
	Text Messages	
15	Exhibit No. 38	212
	Text Messages	
16	Exhibit No. 39	207
	Text Messages	
17		
18		
19		
20		
21		
22		
23		
24		
25		

Page 5

1	Exhibit No. 40	205
2	Test Messages	
3	Exhibit No. 41	215
4	Text Messages	
5	Exhibit No. 52	368
6	E-mail from Brian Covey	
7	Exhibit No. 53	372
8	E-mail Chain	
9	Exhibit No. 54	365
10	Text Messages	
11	Exhibit No. 55	229
12	HousingWire Article	
13	Exhibit No. 56	359
14	Text Messages	
15	Exhibit No. 57	365
16	Text Messages	
17	Exhibit No. 59	39
18	Retail Master Incentive Plan	
19		
20		
21		
22		
23		
24		
25		

The deposition of BRIAN COVEY was taken by counsel for the Respondent via Zoom on January 10, 2024 at 9:11 a.m. for all purposes under the Rules of Civil Procedure.

It is agreed that Rhonda S. Nicholson, being a licensed stenographic court reporter and notary public for the State of Tennessee, may swear the witness, and that the reading and signing of the completed deposition by the witness were not waived.

大 大 大

BRIAN COVEY

was called as a witness, and after having been first duly sworn, testified as follows:

1 EXAMINATION

2 BY MR. KAREN:

3 Q. Good morning, Mr. Covey.

4 A. Good morning.

5 Q. My name is Ari Karen. Just refer to me as
6 Ari. Have you ever been deposed before?

7 A. I'm sorry. Repeat that.

8 Q. Have you ever been deposed before?

9 A. I have once before.

10 Q. Okay. What did that involve?

11 A. That was with Wells Fargo.

12 Q. How many years ago, roughly?

13 A. Over 10.

14 Q. Okay. Were you a party to that or just a
15 witness?

16 A. Just a witness.

17 Q. Okay. And what did it just generally --
18 I don't need a long description. What did it
19 generally involve?

20 A. I was representing in the local office as
21 a manager against someone that had filed a claim.
22 So I just represented Wells Fargo, the local --

23 Q. Okay. Got it. It was like a customer or
24 something like that?

25 A. Correct.

Page 190

1 gets transferred to an ILC that is not permitted
2 transfer, the ILC gets paid the same amount they
3 get paid on any other loan, for example, that they
4 would have done themselves?

5 A. The ones in Region 9 were set up as a flat
6 basis point on anything that funded in their name.

7 Q. Okay. So if I was getting 20 basis --
8 let's say my name is Juanita and I'm getting 20
9 basis points, right? I get that 20 basis points
10 whether it's my next-door neighbor, who I referred
11 him myself, or whether it's a loan transfer from
12 Sean Johnson?

13 A. Correct.

14 Q. Okay. Now I think we understand. Got it.
15 All right. Thank you for going through that with
16 me. I'm sorry. That was a little confusing.

17 All right. So now that we talked about
18 that for a while -- I want to bring your attention
19 to the Region 9 pricing, the corporate-sourced
20 Region 9 pricing we talked about earlier.

21 A. The code or the pricing?

22 Q. The code.

23 A. Okay.

24 Q. And I want to make sure -- just restoring
25 conversation on the same field, right? Region 9

1 pricing referred to -- was essentially a form, as
2 we discussed before, of corporate sourced --
3 corporate-sourced pricing, right?

4 A. Correct.

5 Q. Okay. So when did Region 9 pricing get
6 started? When did that field come into existence?

7 A. I believe -- I don't know the exact month,
8 but somewhere in 2020, early 2020.

9 Q. And was that your idea or was that --
10 well, whose idea was it?

11 A. It had been in existence prior to
12 Region 9. Some regions had a similar code, I
13 believe, but around that time is when it started.
14 It wasn't a new idea.

15 Q. Okay. But how did it start? Did it start
16 with you or did somebody above you tell you, Hey,
17 we're going to have this Region 9 code?

18 A. The people involved in -- in some of those
19 or anything like that would have been John Bianchi
20 or Brigitte Ataya, legal, HR, to add something
21 like that.

22 Q. Well, how did it get -- okay. So it was
23 not something that was your impetus? You didn't
24 say, Hey, let's do this and call it Region 9
25 pricing? Someone somewhere told you, We can do

1 Region 9 pricing, right?

2 A. For those -- yes. To track them and to
3 make sure we were keeping up with those. Yes.

4 Q. Okay. So who was it that advised you of
5 the ability to do Region 9 pricing?

6 A. It would have been one of those -- I don't
7 remember if it was -- was John's team with
8 Brigitte, legal or HR. I don't -- I don't
9 remember who was the one that said, Okay, you can
10 do that now, as -- there were a few regions
11 that -- that we launched that.

12 Q. Okay. But would it have been Paul Ramos
13 or would it have been above Paul?

14 A. For Region 9, it would have probably been
15 above Paul. That's why I said -- John Bianchi
16 probably would have had to have been involved to
17 bless it and approve it.

18 Q. And what -- and what I'm saying, you know,
19 not only who would have been involved to approve
20 it. But who -- how was it communicated to you?
21 Was it in a memo? Was it a phone call? How were
22 you -- how were you communicated about the ability
23 to do Region 9 pricing?

24 A. There were e-mails, as the code -- like a
25 builder code would have to be created.

Page 213

1 A. That's -- I do not remember.

2 Q. But that seems like a pretty specific word
3 for two different individuals to use, doesn't it?

4 MR. KENNEDY: Objection.

5 Speculation. Foundation.

6 THE WITNESS: I do not remember it
7 being a drop-down.

8 BY MR. KAREN:

9 Q. Okay. Is it possible that it was?

10 MR. KENNEDY: Objection.

11 Speculation. Foundation.

12 THE WITNESS: It could be, but I
13 just -- I do not remember it being one.

14 BY MR. KAREN:

15 Q. Okay. So this also says "organic." Did
16 you ask in this text chain, as far as we could
17 see, what organic means?

18 A. No.

19 Q. Okay. But this text bullet says, "This
20 loan has an existing pricing exception of .9." Do
21 you see that?

22 A. I see on the mello app that -- yes.

23 Q. Yes. The mello app. Right. And what
24 is -- what question did you ask upon seeing this?

25 A. "We doing Region 9?"

Page 214

1 Q. You didn't ask where did it come from?
2 You just said -- you just saw that there was a
3 price exception and you asked, Are we doing Region
4 9? Did I read that correctly?

5 A. And to add -- and to add some context, the
6 expectation at the local market was -- that's the
7 ones that they would have scrubbed and they would
8 have known and been able to assist in that.

9 MR. KAREN: Let's go back to Exhibit
10 35.

11 BY MR. KAREN:

12 Q. You say, "Add R9 code and will send up."
13 Do you see where you say that?

14 A. I do.

15 Q. What does "will send up" -- who -- what do
16 you mean by -- what did you mean by "will send
17 up"?

18 A. This appears to have a price exception
19 that would go beyond my approval level with the
20 higher price exception, and so it would require to
21 go up -- potentially Paul Ramos or John Bianchi.

22 Q. Okay. And you specifically said before
23 you send it up, that you want them to add the R9
24 code?

25 A. As the notes indicate below, "Competing."

1 Can do R9 if needed. Competing with Quicken." So
2 when a manager suggests that and that's what they
3 believe is an option --

Q. Okay. Here's my question.

5 A. -- I'm supporting their recommendation.

6 Q. Okay. Here's my question: You wanted the
7 people above you, either Ramos or Bianchi, to know
8 what was an R9 in connection with approving the
9 pricing exception, didn't you?

10 A. If they recommended this as they did
11 below, which would have been Sean's comments, yes,
12 it would -- it would note that it was Region 9
13 if they added the code.

14 Q. My point is, you wanted them to add that
15 before it went to Bianchi or Ramos, didn't you?

16 A. Yes.

17 MR. KAREN: Let's go to Exhibit 34.
18 I'm sorry. Hold on. Exhibit 41. I apologize.

(Document marked Exhibit No. 41.)

20 MR. KENNEDY: By the way, are you
21 introducing all these exhibits? Will they be
22 attached to the transcript?

23 | MR. KAREN: They will be. Yes.

24 MR. KENNEDY: All right.

25 MR. KAREN: Rhonda, you have them,

Page 220

1 Q. And who were these people on this text
2 chain? I know their names. But what positions
3 were they?

4 A. Branch managers or area managers --

5 Q. Got it. So under --

6 A. -- in Region 9.

7 Q. -- you, right?

8 A. In Region 9.

9 Q. Under you? Okay. They all reported to
10 you?

11 A. Correct.

12 Q. Okay. So you were telling the region it
13 was going away?

14 A. Correct.

15 Q. Okay. And this would have been Ramos
16 telling you this, I presume?

17 A. I do not recall how that -- it could have
18 been on a call with John that we -- we said it was
19 a divisional call or with Paul. I do not remember
20 who was on the call for this specific call.

21 Q. Okay. So sometimes John joined these
22 calls?

23 A. Correct. Sometimes we did these together.
24 Sometimes John joined. Sometimes not.

25 Q. Okay. So you don't know -- remember who

1 was specifically telling you during this that
2 Region 9 was going away?

3 A. I do not.

4 Q. Okay. But it's likely that it would have
5 been either John or Paul; is that right?

6 A. John or Paul, yes, would have been on
7 there.

8 Q. Okay.

9 A. I'll say that.

10 Q. And it says it came up again. Had it come
11 up previously? I mean, I assume so if it says,
12 "Came up again."

13 A. I don't remember when it came up again,
14 but I do remember around this time that some
15 questions had come up about using the source code,
16 and we had questions around that. And so I'm
17 guessing it came up again January 14th. So I got
18 to the team probably when I got new information.

19 Q. Okay. And there had been questions. What
20 kind of questions?

21 A. I do not know back then of what those
22 might have been.

23 Q. Well, would it have been compliance
24 related, legally related? Like is it something we
25 could do legally?

Page 245

1 A. -- with a text.

2 Q. Right. And I guess, though, let me break
3 this in two pieces. What would have been
4 discussed -- would you -- strike that.

5 Would you have explained in your e-mails
6 to Region 9 why Region 9 was going away or what
7 some of the concerns were?

8 A. I would expect that to be more of the
9 conversation. There would have been an e-mail of
10 us getting rid of it. But typically, things like
11 that, if there's context to it, I'm a phone call
12 kind of person and -- and talk through it.

13 Q. And then there's the other side of the
14 discussion, which would have been Paul Ramos and
15 John Bianchi to you?

16 A. Correct.

17 Q. And would that have only -- would there
18 have been e-mails pertaining to that or would that
19 have only been the division call, if you recall?

20 A. I do remember something from Brigitte, who
21 is on John's team directly, that works with
22 Bianchi, that -- Brigitte sending out the reminder
23 and something around those going away. Make sure
24 that we pull the pipeline and -- and all the
25 things, but that would have been from Brigitte,

Page 248

1 I don't remember anything from a corporate
2 standpoint. No.

3 Q. Okay. And I think we -- I don't know if I
4 asked you exactly this question. I -- I do recall
5 you telling me that you would have -- it would
6 have been communicated to you either by Ramos or
7 Bianchi. My question is slightly different, which
8 was: Do you know who would have developed the
9 concept of Region 9 before you were informed of
10 it?

11 A. I do not know. I do know there was some
12 regions prior to ours that had similar codes set
13 up. I don't know what they were used for,
14 tracking the builder, tracking market. I don't
15 know that. But I do remember -- ours was not the
16 first one set up. But outside of that and which
17 regions or dates, I don't know.

18 Q. Do you know if the other similar source
19 codes that other regions set up similar to Region
20 9 also went away at the same time the Region 9
21 source code went away?

22 A. I believe they did. That was the e-mails
23 referred to from Brigitte, is all the source codes
24 that were potentially a region set up if they had
25 one. Again, I don't know if all the regions, some

Page 357

1 reflecting the policy -- the practices, policies
2 and rules pertaining to permitted loan transfers?

3 MR. KENNEDY: Objection.

4 Speculation.

5 THE WITNESS: Yes. And then
6 typically if there were any changes or anything
7 we'd need to go over, we would also do a call.

8 BY MR. KAREN:

9 Q. And who would lead that call?

10 A. They would typically start with John
11 Bianchi when he was the national. And that would
12 disseminate through the divisionals, Paul Ramos
13 and my group and then myself. Typically, HR would
14 be on those if it was compensation related.

15 And that would roll out for any
16 questions -- to go through the plan prior to those
17 being sent to everyone and making their elections,
18 whether it be SEC or basis points, commission cap.
19 They would go through all of that so that when
20 their retail incentive plan was sent, they could
21 sign it.

22 Q. When you said "HR," would that be Michelle
23 Alexander typically?

24 A. For our group. Yes.

25 Q. Okay. Now, why was -- why did loanDepot

Page 358

1 allow loan transfers that were not compensable to
2 be made at all? Do you understand my question?

3 A. I do not. Can you rephrase it or --

4 Q. If you don't, I could rephrase it. Sure.

5 Okay. Let me break this down. We've got
6 permitted loan transfers, right, and then you have
7 loans that are transferred that are not permitted
8 loan transfers, correct?

9 A. Correct.

10 Q. Why not just disallow the transfers that
11 aren't permissible? Do you follow what I'm
12 saying? Rather than just not pay them, why not
13 disallow them all together?

14 A. I don't know the answer to that. That
15 would have been a John question or legal or HR and
16 guidance they may have received.

17 Q. Okay. And I don't want you to speculate.
18 If you don't know, then you don't know. But if
19 you --

20 A. I don't know.

21 Q. Do you have any reason to know?

22 A. I do not. I wouldn't -- I would not know
23 as a VP.

24 Q. Okay. Well, I'm asking, though, also in
25 the capacity of 30(b)(6) because I think these

Page 365

1 BY MR. KAREN:

2 Q. But -- okay. Well, that's fine.

3 MR. KAREN: Let's go to Exhibit 57.

4 (Document marked Exhibit No. 57.)

5 BY MR. KAREN:

6 Q. This is another loan between -- that
7 you're discussing. And you say to Mr. Johnson,
8 "Need to have an ILC name before I can verify and
9 send on. Thanks." Do you see that?

10 A. I do.

11 Q. And when you're saying "send on," you're
12 talking about sending on to Mr. Ramos and/or
13 Mr. Bianchi for approval, right?

14 A. Correct.

15 Q. Okay. So it's important for them to see
16 that it had been put in an ILC name before you
17 sent it on, right?

18 A. Correct.

19 Q. Because that would tell them that the
20 hundred basis points you otherwise were paying the
21 loan officer isn't in there anymore, right?

22 A. Correct.

23 MR. KAREN: Let's go to Exhibit 54.

24 (Document marked Exhibit No. 54.)

25 BY MR. KAREN:

1 A. Yeah. From reading this and what I
2 remember is Paul Perscell in marketing -- there
3 were certain loans. So, for example, that were
4 sent to an ILC for pricing reasons here, those
5 were not included in their volume and unit count
6 for what we submitted to Scotsman's Guide, which,
7 as you know, is a third party.

8 Q. Why not?

9 A. I don't know. That wasn't my decision.
10 That would have been above my pay grade.

11 Q. Do you know who would have made that
12 decision?

13 A. I mean, it appears Paul Perscell, most
14 likely, in marketing. And probably worked with
15 John Bianchi, I would expect.

16 Q. Okay. But then -- but it would -- again,
17 but it would qualify for Chairman Elite?

18 A. That's my recollection.

19 Q. So my question is -- okay. So my question
20 is, though, then why would -- what would the
21 internal marketing -- "I am working on internal
22 marketing," what does that mean?

23 A. Sean had hit a milestone, I believe, that
24 year of a hundred million. And without these, it
25 showed 97.5. And so I was going to work with our

Page 405

1 STATE OF TENNESSEE)

) SS

2 COUNTY OF DAVIDSON)

3 I, Rhonda S. Nicholson, a Licensed
4 Stenographic Court Reporter and Notary Public
5 within and for the State at Large, do hereby
6 certify that the foregoing was taken at the place
7 set forth in the caption thereof; that the
8 proceedings were stenographically reported by me
9 in shorthand; and that the foregoing pages
10 constitute a true and correct transcription of
11 said proceedings to the best of my ability.

12 I further certify that I am neither a
13 relative nor employee nor attorney nor counsel of
14 any of the parties to this action, and that I am
15 neither a relative nor employee of such attorney
16 or counsel, and that I am not financially
17 interested in the outcome of this action.

18 WITNESS MY SIGNATURE this 19th day of
19 January. 2024.

20 *Rhonda Nicholson*
21

22 Rhonda S. Nicholson, RPR, LCR #160

23 LCR Expires: 06/30/2024

24 Georgia CSR 5619-8878-0687-3600

25 Notary Public at Large,

State of Tennessee

My Commission Expires:

03/02/2026